App. F. IX-4

1939-31 (Law)

Previous References
Misc 140-26, 1-10

File No. 81-30

Serial Nos. 1—4

Later References
Law 81-30-6, 7+9 (486)
31-35-1+5

29

General and Revenue Secretariat.

Serial Nos. Four

Part B for Feby 1931.

SUBJECT.

Re Land Tax Exemption in favour of Sri Bhimanakatte Matha

(R A 35 of 30-31)

28/2/31

2. Sm.D. 3344-46 of 11.12.30
Report of Govt Advocate & File
the appeal in the High Court &
the petition & advance a sum of Rs
in Cash/Bills & return F.A.

4. Sm.D. 3367-69 of 12-12-30
Sanctioning / in order
11.12.30. Report & return
a sum of Rs 285
Rs 250/-

M. C. 131] Ju[illegible]

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, 5th November 1930.
6.

No. 491 Genl
30-31

GENL. & REV. SECRETARIAT
7 NOV 1930
670
MUZRAI

FROM

S. P. Rajagopalachari, Esq., B.A., B.L.,
~~[illegible]~~
~~[illegible]~~
Muzrai Commissioner in Mysore.

To

The Secretary to the Government of Mysore,
Financial Department.

SIR,

SR 1-10

Referring to your letter No.2375/Muz.140-26 dated 22-6-'27 re: the suit filed by the Javali Family Bank against the Sri Bhimanakatte Matha, I have the honor to forward herewith copy of letter No. Muz.1.AC.309/26-27 dated 8-10-30 from the Deputy Commissioner, Shimoga District, submitting a report regarding the disposal of the suit and to state that copies of the judgement and decree will be sent as soon as they are received.

285

(1) May we referred to the Asst. to the L. R. for opinion if any action has to be taken.
[illegible]

Assistant to the L. R. (2) with complts
[illegible]
20.11.30.

I have the honor to be,

Sir,

Your most obedient servant,

S P Rajagopalachari

Muzrai Commissioner.

AM/

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Letter No.Muz.1.AC.309/26-27 dated 8-10-30 from the Deputy Commissioner, Shimoga District, to the Muzrai Commissioner in Mysore.

I have the honor to state that the Public Prosecutor, Shimoga Division stated in his letter No.78 dated 4th August 1930 (copy enclosed) that judgement was pronounced on 28-7-30 in O.S. No. 1/26-27 on the file of the Sub Judge's Court, Shimoga (Javali Family Bank Vs. Deputy Commissioner) and that the suit is decreed for Rs.2808/- and interest on Rs.1000/- from 23-2-25 and on the balance from 12-2-26 to date of suit at 9% per annum and at 6% per annum on the amount decreed from date of suit till date of realisation and proportionate costs.

Copy of judgement and decree will be submitted as soon as it is received from the Public Prosecutor.

"COPY"

For Muzrai Commissioner.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

General and Revenue Secretariat | File No. 3 | of 1930.—1

Serial No.

158
Law

OFFICE OF THE FIRST MEMBER OF COUNCIL
25 NOV. 1930
No. 5337

(3) Judgment was pronounced in the case on 28-7-1930 as stated in the D.C's letter of 8-10-1930. The time allowed for appeal is three months if the appeal is to the High Court. The time taken for obtaining copies of Judgt & decree will have to be excluded in computing the period of three months.

(4) The Dist Court may be requested to obtain certified copies of the Judgt & decree immediately and also get the opinion of the Pr, Shimoga who conducted the case whether an appeal may be filed in the case. If it is to be filed, immediate action is necessary.

Asst Secy, Revr
with Compts

Dft 24/4

Br (5) Please take immediate action

VS
25.11.30

Dft submd for approval.

1 C.S.
25/11 (1st Member)

VS
25.11.30

esm
25/4

Issue today

VS
26.11.30

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8 7 30

M/43 File No. of 1930-1 General and Revenue Secretariat

No 1200 of 26/11/30 to the Muzrai Commissioner issuing instructions for obtaining the Certified copies of judgments etc. referred to therein and for taking suitable action in the matter.

Letter No 491/30-31 & 1-12-30 from the Muzrai Commissioner forwarding copy of judgment and decree in the original suit filed by the Javali Tamby Bank against the Bohimanakatte Mutt and requesting that the Legal Remembrancer be consulted if the decreed amount be paid or if an appeal be preferred—

a) The M-C. has not referred to his office letter of 26-11-30. He has asked to find out from the P.P. Shimoga who conducted the case whether it is a fit case for preferring an appeal.

The decree copy & judgment received from M-C. are herewith submitted—

The L.R. may be consulted in the matter

4230

(H. Seey) 2.12.30

To L. R. with compliments

3.12.30

Serial No.

July 3
Aug: 5
Sep. 4
Oct.r 31 — 90
Nov.r 30 — 73
73 — 17

The decree was passed on 28th July 1930 - trial
Copy was applied for on 6.8.30 & delivered on 26.9.30
The last for appeal is 16th Dec.r The opinion of the
PPr, Shimoga who conducted the case is not
sent:- Govt Advocate may perhaps be
consulted as to whether this is a fit case
for appeal-

Legal.r

Dorq 4/12
yes
4/12

Forwarded with compliments to the Govt Advocate for favour of opinion

B.O

7.No.443/30-31.

GOVT. ADVOCATE'S OFFICE
4 DEC 1930
BANGALORE.

For Legal R.r & Leg.
Govt, Law dept
4/12

2nd D.C. for
2 f.c.s. 1/2
4-12-30

Dorq 34 of 30.
P
24-12-30

30/30-8
12.1930

Re-transmitted with compliments.

It seems difficult to give an opinion without going through the Commissioner's report and the depositions of witnesses examined in the case, both of which are not in the file.

The preliminary decree not having been appealed from, it has become binding on both parties. According to the directions given therein, the Account Books of the Mutt had to be examined and the amounts sent for payment of Kandayam for Mutt lands and for improvemagt of Mutt properties ascertained. Accordingly

NOTE—Contn. Sheet.

WD 02553—G P B—50,000—8 7 30

Accordingly, a Commissioner was appointed to go into the accounts and make a report.

The Commissioner's report disclosed that out of a total sum of Rs.33,754-0-0 borrowed by the Mutt, sums aggregating Rs.13,329-14-6 were spent for payment of Kandayam and improvement of lands. The Subordinate Judge was, however, of opinion that only a proportionate sum viz., Rs.3,606-0-0 out of Rs.9,000/- the balance due under exhibit A., was binding on the Mutt. Similarly in the credits claimed by the 1st defendant for sums actually paid, the Judge allowed only Rs.801/- and refused to allow the rest. In dealing with these two matters, the Subordinate Judge has not given adequate reasons, and by a mere perusal of the Judgment, it is not possible to say that he is right. However, the method of calculation adopted by the Lower Court, it seems to me, has on the whole, proved beneficial to the Mutt and there may not be much chance of success if an appeal is preferred for getting the amount now held binding on the Mutt further reduced.

(5) The Plaintiffs may appeal and if they do so, the respondent (1st defendant) will have the right of filing his cross-objections within 30 days of service of notice of the appeal on him. In my opinion, this appears to be a fit case in which the 1st defendant may wait until the Plaintiffs prefer an appeal and then file cross-objections.

Bangalore,
9-12-1930. Government Advocate.

General and Revenue Secretariat

File No. Law 81 of 193 0.

Serial No.

1

Letter No: C 491/30-31 dated 8th Decr from the Hon Govt forwarding copy of the Opinion of the Public Prosecutor, Shimoga stating that the case is a fit one to be taken in appeal to the High Court.

The question is whether this is a fit case in which an appeal may be filed from the decree passed in O.S. 10 of 26-27 by the Subjudge, of Shimoga.

The P^r, Shimoga, who conducted the case has now given his opinion that the view taken by the Subjudge as regards the powers of a Mathadhipati to borrow is erroneous & may be tested by an appeal to the High Court.

The Government Advocate however feels unable to pronounce a decided opinion in the matter but advises that this is a case in which Govt can file cross objns if the plaintiff appeals.

It is submitted that once it is a fit case for filing Cross objns, it is certainly a fit case for filing an appeal also. If Govt is to wait until the plaintiffs take action in the matter, the right to question the decree itself may be lost in case plaintiff prefers not to appeal.

It is no doubt true that the chance

NOTE—Contn. Sheet.

WD 02553—G P B—50,000—8 7 30

proceeding in the appeal have been to an extent greatly diminished by the fact that the D.C. has allowed the preliminary decree passed in the case to become final in that no appeal was filed therefrom. It is a fact that the P.P. Shimoga did not advise in time the filing of an appeal from the preliminary decree. The facts of the case however show how novel has been the procedure adopted by the learned Sub Judge in the disposal of this case.

The suit was admittedly on a registered instalment bond & the only important question was whether the debt was incurred for purposes binding on the Hutt. It was duty of the plaintiff to adduce satisfactory evidence on this point and it is very far from clear how the Subjudge came to treat the suit as if it was practically one for accounts and pass a preliminary decree under Order 20 rule 16 C.P.C directing accounts to be taken in order to find out how much of the debt was incurred for legal necessity.

However this course was adopted

Serial No.

the parties having not gone in appeal
Sec 97 C.P.C precludes the defts now
to question the correctness of this
procedure -

The way however in which
accounts have been taken and
calculations made by the Subjudge
in finding out ~~the proportion of the~~ how much of the
debt incurred was actually incurred for
legal necessity, is one which is
certainly novel and unprecedented -
He has with the help of the Commissioner
& the account books of the Deeds found
out the total amount of borrowings
of the late Swami and also the total
amounts paid out of this towards
Kandayanete - Then by a simple ~~&~~
Rule of Three, he finds out what sum
out of the Suit transaction should have
gone towards payment of Kandayam -
The learned Judge then comes to this
Conclusion that this Sum is certainly
binding on the Deeds. Even the amounts
paid by the defendants towards the
Suit bond, the Judge breaks up into
amounts paid in satisfaction of the
debts binding & debts not binding -
No authority or precedent is cited for
adopting this course and it is ~~to~~

NOTE—Contn. Sheet.

WD 02553—G P B—50,000—8 7 30

2808/30

10

File No. of 193

General and Revenue Secretariat

neither
raise how the Pr. Shivaji ~~Law~~ Law
~~allowed~~ the Govt Advocate seem
to question the propriety of the
proceedure adopted.

24 In view of these illegalities this
appear to be a fit case for appeal
to the High Court. The last day for
filing which is 17th Dec 1930.

Legal

Mr. 1
9.12

25 If it is a fit case for
filing cross objn, it must be
deemed to be a fit case for
appeal.
This need not be depend upon
what the Govt may choose to do.
If he omits to file an appeal
the 1st duty will be to think of remedy
of the Govt's opinion to be acted upon
The proceedure adopted by the
subordinate Courts to be irregular and
also illegal. I think it is a fit case
for appeal.

1st Member
through Dr. Desai

Dr. 10/12

To Appeal Section
expires on 16-12-30

h
10.12.30

27 Appeal may be
filed as
CSK
11/12

28 Papers sent
today.
Dr. 11/12

Serial No.

Court fee on Rs 3000/- 225/-
Vakalat & other expenses } 25/-
250/-

The cost of the appeal will be about Rs 250/- . This is to be borne by the Petitioner but the appeal has to be filed above hence the Comptroller is to be requested to advance the sum to the G.A pending final adjustment of accounts Draft G.O. is put up accordingly - The Finl: Secy has also to be consulted -

Legal[r] DM 11/12

Fin: Secy with compts for favour of concurrence. P.M. 11/12

ISSUE & REQUISIT.

12/12 - 30

11/12 - 30

Submitted for sanction & Endorsed to the Hon'ble Member for perusal. P.M. 11/12

Draft typed sent

12/12 Soon

12/12/30

Communicated

2 G.O. No. P 3344-46 Law 81-30-2 dated 11-12-30 sanctioning an appeal from the order of the Sub-Judge Shimoga in O.S. 1/26-27 and requesting the Govt. Ad. to take steps at once to file the appeal.

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8 7 30

1806

Law File No. 61 of 1930. | General and Revenue Secretariat

Memo No 377 d 12th nov 1930 from Govt Advocate requesting that a sum of Rs 265 may be sanctioned towards the expense of filing an appeal

Draft C.O minute.

MC
33 Govt 12/12
after perusal PM
typed 12/12
12/12

H. Cons. 1265 of 18 13.12.30

Draft=Hgain Secn:

18/12 Govt

13/12/30 Consideration

G.O. No. 3367-9 Law 81-30-4 dated 12th Dec 1930
sanctioning a sum of Rs 265/- to the Govt. Ad towards the expense of filing an appeal.

Submitted for perusal. Refer Para 3 - Supra -

TSD 17/12

1st member

DMC 17.12

OBS 26/12/30

OFFICE OF THE FIRST MEMBER OF COUNCIL 17 DEC. 1930 No. 2110

Draft
Please requesting the G.A. to send a copy of the memo of appeal filed herein

TSD 2/1/31

DMC 2/1/31

3408

2806/13

General and Revenue Secretariat

1246 File No.

of 193

Serial No.

Dft to the Govt. Ad. is put up.

TSD 3/1

Issue MM 3/1

To

The Govt. Advocate

No. P. 3887 dated 6th Jan'y '31 requesting

Sec A. to send a copy of the memo of the appeal

TSD 7/1 filed in the H.Ct

MM 9/1 Letter no 434 dated 10th Jan'y 1931 forwarding a copy of the memorandum of the appeal filed before the H.Ct. as against the decree passed in the original suit.

Subd: for perusal

TSD 12/1

Refer: para 23 supra. Paras 3 5 & 10 of the appeal memo may be said to cover these grounds.

Subd: for perusal.

Chief Secy.

MM 12/1

MM 13/1

3

MM 13/1

CHIEF SECRETARY'S 12 JAN. 1931

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8 7 30

26th November 30

1200 mls

The Musrai Commissioner in Mysore,

Bangalore.

With reference to your letter No. 491 of 1930-31 dated 5th/6th November 1930 forwarding copy of letter No. Muz. 1 A.C. 309 of 1926-27 dated 8th October 1930 from the Deputy Commissioner, Shimoga in the matter of the disposal of suit filed by the Javali Family Bank against the Sri Bhimanakatte Mutt, I am directed to request you to be so good as to obtain the certified copies of the Judgment and Decree as also the opinion of the Public Prosecutor, Shimoga who conducted the case as to whether this is a fit case for prefering an appeal and to take suitable further action in the matter.

I have the honor to be,

Sir,

Your most obedient servant

V Subrahmanyasastri

for Secretary to Government,

Financial Department.

C.R.G.

Appendix F G—1

SUBJECT.....

.....

.....

Section Mwz

File No. —

Serial No. —

No. 1200

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193* .

To

M-C

Date of issue 26.11.30

Signed by Sm. N. S. Sastry

Sir,

With reference to your letter No 4-91/30-31 dt 5/11/30 forwarding Copy of letter No Mwz 1 AC 309/26-27 dt 8/10/30 from the D-C. Shimoga in the matter of the disposal of suit filed by the Janali Family Bank against the Sri Bhimanakatte Mutt I am directed to request you to be so good as to obtain the Certified Copies of

List of enclosures.....

Copied by.....

Examined by.....

[over

WD 02559—GPB—25,000—25-6-30

The judgment and decree may
be obtained expeditiously
whether Counsel
or Solicitor can also
or shall also obtain the opinion
of the P. P. Shimoga who
was to
Conducted the Case, Whereon this is a fit case
an appeal may be filed in for appeal
the Case. and to take suitable
further action
in the matter

I am also to add
that if the appeal is to be filed
immediate action is necessary.

I have Etc

25.11.30

To See and Speak on
the Depot

A C.G.
25/11

No. 491 Emp/Jud
30-31

OFFICE OF THE ~~REVENUE~~ Muzrai COMMISSIONER
IN MYSORE,

Dated, Bangalore, 29th November *193* 0.

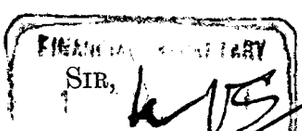
1/12

FROM

S. P. Rajagopalachari, Esq., B.A., B.L.,
~~*Revenue* Commissioner in Mysore.~~
Muzrai

To

Financial
The ~~Chief~~ Secretary to the Government
of His Highness the Maharaja of Mysore,
Bangalore.



SIR,

In continuation of this office letter C.No.491/30-31, dated 6th November 1930, I have the honor to forward herewith copies of -- Judgment and decree in the original suit filed by the Javali Family Ban against the Sri Bheemanakatte Matha and to request you to kindly consul the Legal Rememberancer to Government as to whether the amount decreed against the Matha may be paid or whether there are any grounds for an appeal against the judgment of the Sub Judge and favour me with further instructions in the matter.

333

I have the honor to be,

Sir,

Your most obedient servant,

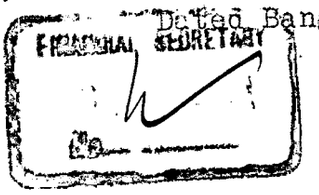
S Rajagopal

Muzrai Commissioner.

4 Kuz. D.No. 8273

No. C 491 Eng 30-31 Office of the Kuzrai Commissioner in Mysore

Dated Bangalore, 8th December 1930



From

S. P. Rajagopalachari, Esq., B.A., B.L.,

Kuzrai Commissioner in Mysore,

Bangalore.

To

The Secretary to the Government of His Highness the Maharaja of Mysore,

Financial Department.

Sir,

With reference to your letter No.1200/Kuz. dated -- 26th November 1930, I have the honor to state that certified copies of the judgment and decree in O.S.No.1 of 1926-27 on the file of the Sub Court at Shimoga (Javali Family Bank V.S. The Deputy Commissioner and the Swamigalu of the Sri Bheemana-katte Matha) have been already sent with this office letter of the 1st December 1930.

2. As regards preferring an appeal to the High Court against the Sub Judges decision, copy of letter No.Kuz.A.C. 309/26-27 dated 6th December 1930 received from the Deputy -- Commissioner, Shimoga District, giving enclosure to the opinion furnished by the Public Prosecutor is submitted herewith. The Public Prosecutor is of opinion that the view taken by the Sub Judge that the Swami can spend the income as he likes --- without first meeting all the necessary expenses for the --- preservation of the Matha properties and then incur debts to meet the necessary expenses making the properties liable for the same, may be tested by preferring an appeal to the High C

3. I request that the opinion of the Legal Remembrancer may kindly be obtained in the matter and necessary instructions

issued

P.T.O.

Submitted. The papers may be referred to the Law Secretary in continuation of D.No.803 sent there on 3-12-30. The last date for appeal is not due on 17-12-30 vide note 9/12/30. H. Leeq) 9.12.30

To L.R with Compliments 9/12

issued to the Government Advocate, if the filing of an appeal is decided upon.

I have the honor to be,

Sir,

Your most obedient servant,

R. Narasimha Ayyangar

For Muzrai Commissioner
(Absent from Head Quarters.)

Copy of letter No.306 dated 4th December 1930 from the Public Prosecutor, Shimoga Division to the Deputy Commissioner, Shimoga District.

With reference to your letter No.Muz.1C.136/26-27 dated -- 4th November 1930 asking for my opinion regarding the advisability of preferring an appeal against the judgment of the Sub Judge, Shimoga in O.S.1/26-27 on his file (Javali Family Bank Vs.Deputy Commissioner) I have the honor to state as follows:-

The Sub Judge has reopened the accounts previous to the date of the money bond on which the suit is brought and has based his decision on an examination of the accounts from nearly 30 years previous to that date and found that out of the total amount borrowed, only a portion ie.about Rs.14000/- was for necessity. Out of the payments made by the Mutt from time to time, the Judge has taken propertionate amounts towards the discharge of the debits binding on the Mutt and disallowed those not binding on the Mutt and has come to the conclusion that out of the ~~xxxxx~~ debts binding on the Mutt, a sum of Rs.2800/- and odd is the balance due and has given a decree for this amount.

We have let in evidence to prove that the Mutt had ample income to meet all its expenses. The Swami for the time being has all along been spending the income of the Mutt as he pleased and borrowing for necessary expenses such as payment of kandayam and improvement of land. Under the law, the head of a mutt has no doubt absolute dominion over the net income from the properties but that does not permit him to spend all its income as he likes and then borrow for necessary expenses. He must first meet all necessary expenses and the balance may be spent by him as he pleases.

The view taken by the learned Judge appears to be ~~x~~ that the Swami can spend the income as he likes without first meeting all the necessary expenses for the preservation of the Mutt properties and then incur debts to meet the necessary expenses making the properties of the Mutt liable for the same. This view of the law is in my humble opinion, erroneous. It is no doubt true that the swami for the time being has got full power of disposing of the entire income of the Mutt properties without in any way being bound to preserve anything for his successor. The power ~~xxxx~~ of disposal

is

is however subject to his first meeting the necessary expenses for the preservation of the Mutt properties.

I am therefore of opinion that the soundness of the view of the law taken by the learned Sub Judge may be tested by preferring an appeal to the High Court

"C o p y"

For Muzrai Commissioner.

6

Copy ofletter No.240 dated 26th/28th October 1930 from the Public Prosecutor, Shimoga Division, to the Deputy Commissioner Shimoga District.

With reference to your letter No.Muz.1 A C.136/26-27 dated 17-10-30 asking me to send you copies of judgment and decree in O.S. 1/26-27 on the file of the Sub Judge, Shimoga, I have the honor to forward copies of the judgment, preliminary decree and final judgment and decree in the case. In case it is contemplated to file an appeal in the High Court, the last date is 17-12-30.

I am detailing below the amount of costs incurred by me in the case and the amount comes to Rs.310-2-0. A sum of Rs.150/- was advanced to me previously for this case and balance of Rs.160-2-0 may be kindly arranged to be paid to me at an early date.

Particulars.

Vakalat	0-8-0	0-8-0
Application	0-12-0	0-12-0
Cost of obtaining copies of judgment and decree.	10-14-0	10-14-0
Fee (on Rs.7400/-)		298- 0-0
	Total. Rs.	310- 2-0

"C o p y"

For Muzrai Commissioner.

7

Letter No.Ruz.AC.309/26-27 dated 6th December 1930 from the Deputy Commissioner, Shimoga District to the Ruzrai Commissioner in Mysore.

In continuation of this office letter No A.C.309/26-27 dated 12th November 1930, forwarding copies of judgment and decree in O.S.1/26-27 (Javali Family Bank VS.Deputy Commissioner) in the Sub Judge Court, Shimoga, I have the honor to forward herewith copies of letters Nos.240, dated 26/28th October 1930, and 306 dated 4-12-30 received from the Public Prosecutor, Shimoga, giving his reasons for preferring an appeal to the High Court against the Sub Judges descision and stating that the last date for filing the appeal is 17-12-30.

As the Public Prosecutor is of opinion that the view of law taken by the learned Sub Judge may be tested by taking an appeal to the Honourable High Court, I request that necessary action may be taken very early as the last date for an appeal is the 17th -- instant.

"C o p y"

For Ruzrai Commissioner.

G.R.S. App. F VI G-2]

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( ) }
the *193* . }

Date of issue 11/12/30

Signed by M. N. S. P.

May this be

(i) Printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Sec. Law
File No. 81-30
Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Letter No: C491/30-31 dated 8th Dec 1930 from the Asst. Comr. in Mysore forwarding copies of Judgment and decree passed on the 28th day of July 1930 in O.S. 103 of 1926-27 on the ~~Order Thereon No.~~ file of the Subordinate Judge at Shimoga, (Javali Bank Ltd vs Deputy Comr, Shimoga & the Swamis of the Bhimanakatte Mutt

~~Stating that~~ order: p. 33 to 46.

Government are of opinion that this is a fit case in which an appeal may be preferred

to the High Court. The Govt
Advocate is requested to
take steps atonce to file
the appeal, ~~Pending adjustment~~ with
the costs of ~~the~~ which have to
be borne by the Bhimanakatte
Mutt. The ~~Honorable Court~~ Comptroller to Govt is
however requested to
advance to
~~provide~~ the Govt Advocate
a Sum of Rs 250/-
~~with~~ the necessary funds atonce
pending final adjustment
of accounts, so that the
appeal may be filed ~~in~~
~~Time~~ on or before the 16th Dec
1930.

Sec to Govt
Law Dept

11/12

To
1) The Govt Advocate with
certified copies of suits & decree.
2) The Hon'ble Court in reply
3) The Comptroller to Govt Thro' Govt
Civil Secte.

Copy to Hon'ble Jr.

List of enclosure

Copied by

Examined by

WD 02560 —GPB —11,250—2-7-30

In reply please refer to
No. 272

Tel. Address:—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore. 12th December 1930.

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of His Highness the Maharaja of Mysore,
Law Department,
Bangalore.

SIR,

Adverting to Government Order No. P. 3344-46/Law., 81-30-2, dated the 11th December 1930, sanctioning the filing of an appeal to the High Court against the Judgment and Decree passed by the Subordinate Judge of Shimoga, in O. S. No. 1 of 1926-27 (Javali Bank, Limited., VS. The Deputy Commissioner, Shimoga and the Swami of Sri Bhimanakatte Mutt) and requesting the Comptroller to advance a sum of Rs.250/- only, for meeting the cost of stamps etc., to be purchased for filing the appeal I have the honor to state that on making a calculation as per terms of the Lower Court Decree, I find that we have to pay a Court Fee of Rs.275-0-0 only in appeal, (i.e., on a total sum of about Rs.3,725-4-6, including interest from date of suit to date of decree, as allowed in the Decree), and that another sum of about Rs.10/- will be required for meeting the cost of stamps required for the Vakalath, authentication of copies of Judgment and Decree, processes etc., I therefore, request that the Muzrai Commissioner may be kindly instructed to send me a sum of Rs.285/- only (Rupees Two Hundred and Eighty Five only) for the present, instead of Rs.250/- as stated in the Government Order under reference. The amount will be required by me on Monday, the 15th instant, as the appeal will have to be filed in the High Court on that day, after receipt

of the Vakalath, which I have this day sent to the Deputy Commissioner, Shimoga, for signature and return.

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramachandra R

Government Advocate.

10

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

R e a d:-

Government Order No. . 3344-46/Law 81-30-2 dated the 11th December 1935 sanctioning the filing of an appeal from the judgment and decree in O.S. 1 of 26-27 (Jewell Bank Vs Deputy Commissioner, Bella[illegible] and another) on the file of the District Judge, [illegible] and requesting the Comptroller to advance a sum of Rs. 2[illegible]/- to the Government Advocate for expenses of appeal.

2. Letter No. 377 dated 12th December 1935 from the Government Advocate, stating that the court fee on appeal would be Rs. 275/- and other expenses about Rs. 10/- and requesting -- therefore for an advance of Rs. 285/- by the 16th December 1935.

O R D E R No. 3367-9/Law 81-30-4

Dated Bangalore the 13th December 1935.

In modification of the Government Order read above the Comptroller is requested to advance a sum of Rs. 285/- to the Government Advocate instead of Rs. 25[illegible]/- mentioned in the said order.

N. Sanmugam

Secretary to Government
Law Department.

To

The Comptroller to Government through Finl.Deptt.

The Government Advocate in Mysore.

The Mamlat Commissioner in Mysore.

S.N.

G.K.S. App. F VI G-2]

SUBJECT .....

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Diary No. of letter replied to.....

Sec. Law

File No. 81-3

Serial No. 6

General and Revenue Secretariat

( )

the *193* .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Date of issue 12-12-1930

Signed by Sir N. S. Iyengar

1) G.O. No: P 3344-46/dated 81-30-2 dated the 11th ~~October~~ Decr 1930, Sanctioning the filing of an appeal from the Draft decree in O.S. 1 of 26-27 (Javali Bk vs D.C. Shimoga pending on the file of the Dt Judge, Shimoga ~~Order Thereon No.~~ & requesting the Comptroller to advance a sum of Rs 250/- to the Govt Advocate for expenses of appeal.

2) Letter No: 377 dated 12th Decr 30 from the Govt Advocate, stating that the court fee on appeal would be Rs 275/- & other expenses about Rs 10/-

·May this be

(i) Printed ?

(ii) treated as a standing order ?

iii) published in the Gazette, English Part?

iv) translated ?

(v) placed at the disposal of the press ?

vi) published in the Gazette, Kannada Part ?

I request therefore for an advance of Rs 285/- be the 15th Dec 1930.

Order No P 3367-G

In modification of the Govt order read above, the Comptroller is requested to advance a sum of Rs 285/- to the Govt Advocate instead of Rs 250/- mentioned in the said order.

List of enclosure

Copy to Govt-
Law Dept.

1) The Comptroller to Govt, Through Fd Asst
2) Govt Advocate.
3) Mule Cur
Copy to Thro' Bar

Copied by

Examined by

WD 02560 --GPB --11,250 --2-7-30

Apnendix F G—1

SUBJECT.....

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Diary No. of letter replied to.....

Section

File No.

Serial No.

No. 3887

General and Revenue Secretariat

( )

the *193* .

To

The Govt Advocate

Date of issue 6/1/31

Sir,

Signed by.....

I am directed to invite reference to the G.O. No. P. 3344-46 Law 81-30-2 dated 11th Dec 1930 authorising you to prefer an appeal in the H.Ct against the decree passed in O.S. 1 of 26-27 on the file of the Dist. Judge Shimoga (Javali Bank Ltd) vs Deputy Commr Kanara and to request that a

List of enclosures.....

Copied by.....

Examined by.....

Copy of the memo of the appeal filed ~~before the H Ct~~ by you may kind be sent for the information (over) of the Govt

at an early date

I have etc

TSD
3/1

G.R.S. III—3]

Routine Notes.

3487 Law 13

3rd January 1931

From

The Chief Secretary to the Govt. of H.H. the Maharaja of Mysore.

xxxxxxxxxx

To

The Government Advocate,
Bangalore.

Sir,

I am directed to invite reference to the Government Order No.P. 3344-46/Law 81-30-2 dated 11th December 1930 authorising you to prefer an appeal in the High Court against the decree passed in O.S. 1 of 26-27 on the file of the District Judge Shimoga (Javaly Bank Ltd.Vs Deputy Commissioner and another) and to request that a copy of the Memorandum of the appeal filed by you may kindly be sent for the information of the Government at an early date.

I have the honor to be,
Sir,
Your most obedient servant,

For Chief Secretary to Govt.

c.n.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

14 3408/P 93

In reply please refer to
No. 484

Tel. Address:—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore.....9th.....January.....*1931*.

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

3287/101
Laws 1931

To

The Chief Secretary to the Government
of H. H. The Maharaja of Mysore,
BANGALORE.

SIR,

With reference to your letter NO. P.3887/Law. dated the 3rd/6th January 1931, I have the honor to forward herewith, as desired, a copy of the Memorandum of Appeal filed by me before the High Court against the Decree passed in Original Suit No. 1 /1926-27 on the file of the Subordinate Judge, Shimoga, (Javali Family Bank, Ltd., VS. The Deputy Commissioner, Kadur District and another).

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramachandra Rao

Government Advocate.

CSN.

15

IN THE HIGH COURT OF MYSORE AT BANGALORE.

REGULAR APPEAL No. OF 1930-31.

The Deputy Commissioner, Shimoga. — APPELLANT.

-Vs-

1. The Javali Family Bank, Ltd., Tirthahally, Company Manager Javali Hanumantha Rao, since deceased by Liquidators (a) Javali Ananda Rao (b) Raghupathi Rao.

2. The Swamy of Bheemanakatte Mutt, Sree Raghu Tilaka Tirtha Swamy. — RESPONDENTS.

UNDER SECTION 96 OF THE CODE OF CIVIL PROCEDURE.

The appellant abovenamed begs to appeal from the decree passed by the Subordinate Judge, Shimoga, in Original Suit No. 1 of 1926-27 on the following grounds, namely:-

1. That the lower court erred in holding that the amount spent for cultivation and improvement of Mutt lands was Rs.1,077-10-0 and that the amount spent for payment of kandayam for Mutt lands was Rs.12,247-4-6.

2. That the lower court further erred in holding that the aforesaid two amounts - formed necessary items of expenditure, that they should be deemed to have been borrowed for absolute necessity and that they were paid only out of the amounts borrowed from the - Plaintiffs.

3. That the lower court also erred in not holding that the said debts were in law not binding on the Mutt inasmuch as they were not proved to have been incurred for any justifiable necessity. The burden of proof lay entirely on the Plaintiffs who have failed to discharge the same.

4. That the lower court was wrong in not crediting the sums paid to the Plaintiffs only as against the sums found to have been borrowed for legal necessity.

5. That the lower court was also wrong in holding that the debt to the extent of Rs.3606/- was binding on the Mutt and that only a proportionate sum, viz., Rs.801/- out of Rs.2000/- admittedly paid by Defendant No.1 should be deducted out of the sum found payable to Plaintiffs.

6. That the lower court was also wrong in passing a decree in favour of Plaintiffs

for

for Rs.2808, interest on Rs.1000/- from -- 23-2-1925 and on the balance from 12-2-1926 till date of suit at 9% and interest on the decreed amount from date of suit till date of realization.

7. That the lower court also erred in not allowing proportionate costs against ~~xxx~~ Plaintiffs to the extent they were unsuccessful.

8. That the lower court has failed to record findings in accordance with the issues as framed.

9. That the lower court has not correctly appreciated the evidence adduced in the case and the reasons given for the findings recorded in the case are neither satisfactory nor tenable.

10. That the decision of the lower court is otherwise erroneous and unsustainable in law.

The Appellant therefore prays that the decree of the lower court may be set aside and that Plaintiffs' suit be dismissed with costs throughout.

The value of the subject matter in appeal is Rs.2997-0-10 plus Rs.728-3-8 being the - interest from date of suit to date of decree or Rs.3725-4-6.

(Sd) M. Ramachandra Rao.

Bangalore,
15th December 1930.

Government Advocate,
Advocate for Appellant.

Copy
M. Ramachandra Rao
Government Advocate